

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



STATE OF CALIFORNIA (DEPARTMENT
OF FORESTRY AND FIRE PROTECTION),
Employer,
and
CALIFORNIA DEPARTMENT OF FORESTRY
EMPLOYEES ASSOCIATION, IAFF
LOCAL #2881,
Petitioner,
and
INTERNATIONAL UNION OF OPERATING
ENGINEERS,
Exclusive Representative.

Case No. SA-UM-595-S
(SA-SR-8 & SA-SR-12)
PERB Decision No. 1216-S
August 27, 1997

Appearances: State of California (Department of Personnel Administration) by Gail T. Onodera, Labor Relations Counsel, for State of California (Department of Forestry and Fire Protection); Neyhart, Anderson, Reilly & Freitas by William J. Flynn, Attorney, for California Department of Forestry Employees Association, IAFF Local #2881.

Before Caffrey, Chairman; Johnson and Dyer, Members.

DECISION

CAFFREY, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the State of California (Department of Forestry and Fire Protection) (Forestry or Department) to a Board agent's proposed decision. The Board agent approved a unit modification petition, filed by the California Department of Forestry Employees Association, IAFF

Local #2881 (CDFEA) under the Ralph C. Dills Act (Dills Act) section 3521(b).¹

¹The Dills Act is codified at Government Code section 3512 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code. Section 3521(b) provides, in pertinent part:

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the

The Board has reviewed the entire record in this case, including the proposed decision, Forestry's appeal and CDFEA's response. Based on the following discussion, the Board grants the portion of CDFEA's unit modification petition that requests the placement of the Forestry Logistics Officer I (FLO I) classification in State Bargaining Unit 8. The Board finds the Forestry Logistics Officer II (FLO II) classification to be supervisory under Dills Act section 3513(g)² and dismisses the portion of CDFEA's petition that requests the placement of the FLO II in State Bargaining Unit 8.

right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

²Dills Act section 3513 states, in pertinent part:

(g) "Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend this action, if, in connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

PROCEDURAL HISTORY

On April 13, 1995, CDFEA filed a unit modification petition requesting that the FLO I and II classifications be placed in State Bargaining Unit 8. The FLO I is currently assigned to State Bargaining Unit 12, and the FLO II is a supervisory class aligned with Unit 12. The exclusive representative of Unit 12, the International Union of Operating Engineers, Craft Maintenance Division, did not object to the transfer. Forestry opposed the transfer. A PERB-conducted settlement conference on May 31, 1995, failed to resolve the issue. A PERB hearing officer conducted a formal hearing on September 26, 27, 28 and November 15, 1995. On August 6, 1996, the case was transferred to another Board agent for preparation of the proposed decision. The proposed decision granting CDFEA's unit modification petition was issued on October 21, 1996.

FACTS

The Department contains two regional Emergency Command Centers that are geographically divided into 22 ranger units. Each ranger unit includes at least one fire station and a service center run by a FLO that provides the Department's with emergency response equipment and supplies.

From 1977 to 1990, Forestry used the Unit 12 classification series of Materials and Store Supervisor (MSS) and Business Service Officer (BSO) to staff the service centers. In 1990, the State Personnel Board (SPB) established the FLO series to replace the service center MSS and BSO positions and recognize the

uniqueness of logistics operations within Forestry.³ The SPB found that the MSS and BSO classifications failed to adequately encompass the emergency procurement and support functions these positions performed. In addition, incumbents needed to understand fire suppression terms and methodologies in order to provide adequate support to fire suppression activities. The Department of Personnel Administration (DPA) placed the FLO I class in State Bargaining Unit 12 and designated the FLO II as a supervisory class aligned with Unit 12.

Unit 12, the Crafts and Maintenance Unit, consists of 465 classifications. Forestry utilizes 11 Unit 12 classifications: Aircraft Mechanic, Carpenter I and II, Electrician I and II, Groundskeeper, MSS, Warehouse Worker, Heavy Equipment Mechanic Laborer and FLO I. Only the FLO'S and Heavy Equipment Mechanics typically work at the ranger units. In the original state unit determination, Unit Determination for the State of California

(1979) PERB Decision No. 110-S, PERB found:

The employees included in this unit, for the most part, share common concerns over job safety including uniforms to be worn and safety equipment, and because of the often mobile nature of their work they share common concerns over working conditions including hours, the location they are to report to work, and lunch facilities. [Id. at p. 44.]

Unit 8, the Firefighters Unit, includes only Forestry-specific classifications. In the original state unit

³There is currently one MSS performing FLO duties at the Sonoma Ranger Unit. The position will be reclassified to a FLO I when vacated.

determination, PERB found the Firefighters Unit appropriate because firefighters receive special training at the Fire Academy, are exposed to unique safety and health hazards in the performance of their duties under emergency conditions, have unique work schedules and housing arrangements, and fighting fires requires special equipment. (Ibid.) The unit includes 32 classifications, including: State Forest Ranger, Air Operations Officer, Fire Prevention Officer, Forester, Fire Captain, Firefighter, Fire Lookout, and Forestry Pilot. Many Unit 8 classifications serve in strictly support roles, not direct fire suppression. Most Unit 8 employees participate in the "Peace Officer-Firefighter" retirement plan and work a 72-hour rotating schedule. However, many Unit 8 support classifications work 40 hour weeks.

The FLO I administers the service center located near a ranger unit headquarters. The FLO I organizes each ranger unit's logistical support operations under the supervision of a State Forest Ranger II. The FLO I estimates demands for unit equipment and materials, maintains property records, prepares purchase orders and estimates, purchases supplies, and receives and distributes goods to the fire stations within the unit. The FLO I wears a Forestry uniform, works a 40-hour week and is accessible by pager during emergencies. During a busy fire season, the FLO I may work significant amounts of overtime.

Depending on specific training, the FLO I performs a number of functions in the Incident Command System (ICS), Forestry's

emergency response system. The FLO I receives ICS training at the Fire Academy, and receives emergency orders directly from the Emergency Command Officer. During a short duration fire, the FLO I may deliver equipment and food to the incident base camp or fire line. During extended fires, the FLO I usually provides supplies from the service center. The FLO I may also be assigned to extended out of county fires.

DPA specifications allow for two FLO II positions statewide, one in the Riverside ranger unit and one in the San Bernardino ranger unit. Due to departmental concerns over cutbacks, only the Riverside ranger unit FLO II position is filled on a limited term basis. The FLO II performs duties similar to those of the FLO I, and spends one to two hours per day supervising one Business Services Assistant (BSA), one Office Assistant, one county-employed Supervising Storekeeper and two county-employed Stock Clerks.⁴ The FLO II's supervisory duties are the same for the state and county employees.

The FLO II completes performance evaluations for the BSA, Office Assistant, Supervising Storekeeper and Stock Clerks and signs them as the immediate supervisor. The ranger unit's administrative officer and deputy chief of administration review and sign the evaluations. Walter Andrews (Andrews), the Riverside ranger unit's administrative officer, testified that neither he or the deputy chief of administration changed a performance evaluation completed by the current or previous

⁴The BSA position was vacant at the time of the hearing.

FLO II.

Although all discipline requires the ranger unit chief's approval, the FLO II could recommend transfer of a problem employee and would be responsible for filling out the required papers. The previous FLO II was involved in rejecting a county employee on probation and completed a probationary employee performance report for the Office Assistant. If a subordinate filed a grievance, the FLO II would deal with it as the immediate supervisor.

The FLO II sits on three-person interview panels as the service center supervisor and acts as the lead panel member who sets up the panel and develops questions. Each panel member's score is given equal weight. The panel forwards the candidate with the highest average score to the ranger unit chief. If the scores are close, or there is a tie between two candidates, the FLO II makes the panel recommendation. Only the ranger unit chief possesses the authority to hire or fire employees. The Riverside ranger unit chief has never rejected a panel's recommendation.

The FLO II determines service center priorities and directs subordinates' daily responsibilities. The Riverside FLO II has made two requests to add positions to the service center based on workload. The FLO II has the authority to change regular assignments. For example, in emergency situations, the Emergency Command Center contacts the FLO II, who organizes the service center response, and contacts subordinates. Andrews testified

that he never reviews the FLO II's work assignments. The FLO II also organizes the service center annual inventory.

The FLO II trains the BSA, Office Assistant and Supervising Storekeeper. The FLO II regularly inspects subordinates' work and corrects improperly performed work. The service center employees direct their work-related questions to the FLO II. The FLO II holds monthly meetings with subordinates about problem areas such as audits, inventory, back orders, etc. The Riverside FLO II attends the Department's monthly management level staff meeting and relays information back to subordinates.

The FLO II approves subordinates' sick leave and vacation requests, and denies vacation requests based on departmental needs. The FLO II has restructured subordinates' jobs to accommodate an employee's temporary limited duty. The FLO II authorizes overtime and compensatory time. The FLO II does not check with anyone before acting on these requests.

CDFEA'S POSITION

CDFEA asserts that the FLO'S share an extensive community of interest with Unit 8 employees. Both FLO'S and the Firefighters spend the majority of their day at the ranger unit. The ICS functions are part of the FLO job, even if they are voluntary. Like the FLO classes, many Unit 8 classifications are not involved in direct fire suppression. Like all Unit 8 classifications, FLO'S are Forestry specific positions. The FLO's provide direct support to Forestry's firefighting mission, work long and irregular hours and wear Forestry uniforms. CDFEA

argues that Forestry has failed to show that FLO's share a greater community of interest with any other unit.

With regard to the FLO II, CDFEA argues that supervision of county employees is not supervision under the Dills Act. The current FLO II only supervises one state employee, the Office Assistant, because the Riverside BSA position is vacant. Since the FLO II duties only include 20 percent supervision, and only one of five subordinates is a state employee, only 20 percent of the supervisory time, or 4 percent of the FLO II's time, is spent supervising a state employee. CDFEA argues that these duties are insufficient to meet the Dills Act definition of a supervisory position. Therefore, the FLO II classification should also be placed in Unit 8.

FORESTRY'S POSITION

Forestry contends that CDFEA has failed to rebut the presumptive validity of the original state unit determination by showing that its proposed unit modification is more appropriate. (State of California (Department of Personnel Administration) (1992) PERB Decision No. 933-S.) The duties of the FLO I and II were derived from the MSS and BSO classifications that were originally placed or aligned with Unit 12. The party requesting unit modification bears the burden of demonstrating the proposed unit placement is more appropriate than the original PERB unit placement. (Ibid.)

Forestry also argues that the FLO I and II positions have little community of interest with Unit 8. FLO's perform a

support function, but unlike all other Unit 8 positions, they do not perform any fire prevention or protection duties. Except for the optional ICS training available to all Forestry employees, FLO's and the Unit 8 positions possess no common skills. The promotional path for FLO's contains no Unit 8 positions. FLO's spend only 10 to 20 percent of their time on emergency logistical support and the majority of their time is spent in the service center, even during emergencies. FLO's are never in the danger area and are not issued fire protection gear. The ranger units include other non-unit 8 employees. Unlike FLO's, who work forty-hour weeks and are paid overtime, many of the Unit 8 employees work extended weeks and 95 percent of them qualify for the Fair Labor Standards Act (FLSA) fire suppression employee overtime exemption.

Forestry asserts that the record shows that the FLO II performs several supervisory functions enumerated in Dills Act section 3513(g). The FLO II effectively recommends hiring and promotion, exercises independent judgment in preparing evaluations and approving sick and vacation leave, rejects probationary employees, and disciplines employees. FLO II duties are not substantially similar to subordinate duties. The FLO II requires an increased level of knowledge and responsibility, coordinates multiple government activities, and hires and supervises several subordinate staff.

The Department also objects to the proposed decision being written by a Board agent who did not conduct the hearing in the

case. Additionally, the Department asserts that PERB has failed to ensure against internal conflicts of interest by establishing guidelines to screen the attorneys who advise the Board from PERB's advocacy, investigative and adjudicative functions.

DISCUSSION

Forestry maintains that CDFEA has failed to rebut the presumption of validity of the original unit determination. To rebut the presumptive validity of the original PERB state unit determination, the petitioning party must show that the proposed modification is more appropriate. (State of California (Department of Personnel Administration) (1990) PERB Decision No. 794-S.) However, while PERB considered the MSS and BSO classifications in the original state unit determination, it did not consider the FLO classifications. To recognize the unique functions the MSS and BSO classifications performed in Forestry, the SPB created the new FLO classifications in 1990. DPA placed or aligned the new FLO classifications in Unit 12. Under these circumstances, it is clear that PERB has not determined the appropriate placement of the FLO series, and the presumptive validity of PERB's original placement of the MSS and BSO classifications in Unit 12 does not carry over to DPA's placement and alignment of the new FLO I and II classifications in Unit 12.

Dills Act section 3521(b) lists the criteria for determining the appropriate unit for state employees, including: community of interest among the employees; common skills, working conditions, duties, supervision, or educational and training requirements;

effect on the meet and confer relationship and efficiency of operation; the size of the appropriate unit and its effect on representational rights. (State of California (Department of Personnel Administration)). supra, PERB Decision No. 933-S.)

The FLO I clearly shares a community of interest with Unit 8 employees. The FLO I is a Forestry-specific classification and provides crucial logistical support to Forestry's firefighting mission. This community of interest was acknowledged when the SPB established the FLO series to recognize the uniqueness of logistics operations within Forestry, and the requirement that incumbents understand fire suppression methodologies to adequately support Forestry activities.

The record also shows that the FLO I shares common skills, supervision and working conditions with Unit 8 employees. Unit 8 employees supervise the FLO I. Like Unit 8 employees, the FLO I wears Forestry uniforms, is stationed at the ranger units, works irregular hours during the fire season, is on call in emergency situations and receives ICS training at the Fire Academy. Although the FLO I does not perform direct fire prevention or protection duties, other existing Unit 8 classifications also serve in strictly support roles.

The record is devoid of any evidence indicating that the inclusion of the FLO I in Unit 8 would negatively impact the Unit 8 meet and confer relationship or employee representational rights. Forestry contends that the small number of FLO I positions (20-26) means that their concerns will be lost among

the needs of other Unit 8 classes. Forestry also asserts that since the FLO I falls outside the FLSA fire suppression employee overtime exemption, its inclusion in Unit 8 would complicate negotiations. These arguments are unpersuasive, however, because Unit 8 currently contains other classes that have fewer positions than the FLO I class, and/or fail to qualify for the FLSA overtime exemption.

The evidence indicates that the FLO I promotional path contains no Unit 8 positions, that FLO I ICS training and duties are optional, and that the FLO I spends the majority of work time at the service center, not in fire danger areas. However, these factors do not outweigh the substantial community of interest and commonality of purpose that the FLO I shares with Unit 8 positions.

In making its initial unit determination decisions, PERB's task is to determine an appropriate unit. (Antioch Unified School District (1977) EERB Decision No. 37.)⁵ CDFEA has presented evidence demonstrating that Unit 8 is an appropriate unit for the FLO I classification. In response, Forestry asserts the presumptive validity of the original unit determination for the MSS and BSO positions. As noted above, that presumption of validity does not apply to the FLO I classification. Forestry has failed to provide evidence establishing that Unit 12 is an appropriate unit for the FLO I classification. In consideration

⁵Prior to January 1, 1978, PERB was known as the Educational Employment Relations Board or EERB.

of the entire record, the Board concludes that Unit 8 is an appropriate unit and grants CDFEA's unit modification petition requesting that the FLO I classification be placed in State Bargaining Unit 8.

Turning to the FLO II classification, CDFEA maintains that supervision of county employees is not supervision under the Dills Act. When an employee supervises non-bargaining unit, or non-civil service, employees on a regular recurring basis in the employer's interest, PERB has considered those duties in determining whether the employee meets the supervisory criteria of the Dills Act. (State of California. Department of Personnel Administration (1989) PERB Decision No. 727-S.) The FLO II regularly supervises county employees on behalf of the Department, and those employees work established hours at state facilities and are responsible to a full-time state employee. Therefore, it is appropriate in this case to consider the FLO II's supervision of county employees to determine whether the FLO II meets the supervisory criteria.

Forestry contends that the record shows that the FLO II performs several of the supervisory functions enumerated in Dills Act section 3513(g). The performance of any one of the functions enumerated in section 3513(g) may render an employee supervisory. (Unit Determination for the State of California, supra. PERB Decision No. 1100-S.) However, the performance of supervisory duties must involve independent judgment. Independent judgment is the opportunity to make a clear choice between two or more

significant alternative courses of action without broad review or approval. Routine or clerical decision making precludes a finding of supervisory status. (Ibid.)

The use of independent judgment in the assignment and direction of work is an indication of supervisory status. Allocating regular work assignments, altering regular assignments, assigning specific additional tasks, and reviewing and correcting work demonstrate supervisory status. (Sweetwater Union High School District (1976) EERB Decision No. 4; Campbell Union High School District (1978) PERB Decision No. 66.)⁶ The authority to assign work does not indicate supervisory status if the work is so routine or structured that assigning the work is ministerial. (Unit Determination for State of California, supra, PERB Decision No. 110c-S.)

The FLO II uses discretion to direct subordinates' daily responsibilities based on service center priorities. The FLO II trains the BSA, Office Assistant and Supervising Storekeeper and regularly inspects and corrects subordinates' work. The service center employees bring any work-related questions to the FLO II. The FLO II alters subordinates' work assignments to respond to emergency situations or meet departmental needs. For instance, the FLO II organizes the annual service center inventory and

⁶The Educational Employment Relations Act (EERA) and the Dills Act contain almost identical criteria for determining supervisory status. Therefore, the Board considers EERA cases when determining whether an employee meets the Dills Act criteria. (Unit Determination for the State of California, supra. PERB Decision No. 110c-S.)

service center emergency response and has restructured assignments to accommodate an employee's temporary limited duty. No one reviews the work assignments made by the FLO II. The use of independent judgment by the FLO II in assigning and reviewing work establishes supervisory status.

The authority to authorize overtime and grant time off without prior approval is an indication of supervisory status.

(Lincoln Unified School District, (1997) PERB Decision No. 1194.) However, an employee does not exercise independent judgment when the scheduling of vacations and approval of sick leave follows a defined policy. (Unit Determination for the State of California, supra. PERB Decision No. 110c-S.) The FLO II determines whether to grant overtime and vacation based on departmental needs, not by following a defined policy. No one reviews the overtime, vacation or sick leave decisions made by the FLO II. The use of independent judgment by the FLO II in granting overtime and time off also establishes supervisory status.

The authority to effectively recommend the promotion, discharge, or hiring of other employees indicates supervisory status. (Campbell Union High School District, supra. PERB Decision No. 66.) The final hiring, discipline and salary decision is often reserved to persons far removed from an employee's immediate supervisor. Therefore, the ability to indirectly, but effectively, bring about changes in employment status is accorded great weight. (Ibid.)

The record shows that the FLO II has the ability to bring

about changes in subordinates' employment status. Conducting evaluations, or effectively recommending the outcome of the evaluation process, indicates supervisory status because evaluations profoundly effect personnel decisions. (Hemet Unified School District (1990) PERB Decision No. 820.)

Evaluations subject to substantial review or approval, or following a routine course prescribed by past practice or existing policy, are insufficient to establish supervisory status. (Unit Determination for the State of California, supra, PERB Decision No. 110c-S.) The FLO II completes subordinates' performance evaluations and signs them as the immediate supervisor. Although the evaluations are subject to review, the reviewers never changed a performance evaluation completed by the FLO II. Therefore, the record establishes that the FLO II effectively recommends the outcome of the evaluation process and indicates supervisory status.

The record shows that the FLO II's involvement in the hiring process is insufficient to establish supervisory status. Equally weighted participation on interview panels does not demonstrate that the FLO II effectively recommends the outcome. (Unit Determination for the State of California, supra, PERB Decision No. 110c-S; Sanger Unified School District (1989) PERB Decision No. 752.) Similarly, although the record indicates that the FLO II participated in the probationary process, insufficient evidence was presented to establish that the FLO II effectively recommended the outcome.

Since the record establishes that the FLO II exercises independent judgment in performing several of section 3513(g)'s indicia of supervisory status, the remaining issue is whether FLO II duties are "substantially similar" to those of subordinates. When the employee's duties reach the point that the involvement in supervisory functions outweighs the right to participate in rank and file unit activity, the employee's supervisory obligations preclude a finding that the employee's duties are substantially similar to those of subordinates.

(State of California. Department of Personnel Administration. supra. PERB Decision No. 727-S.) The FLO II exercises unfettered supervisory duties over many of the elements of subordinates' employment by setting service center priorities, participating in ranger unit management meetings, organizing the service center's emergency response, preparing performance evaluations, approving vacation, overtime and compensatory time, and scheduling and assigning subordinate work based on departmental needs. While these functions may account for only 20 percent of the work time of the FLO II, they involve a level of responsibility which is markedly greater than that of subordinates. In consideration of these responsibilities, the Board concludes that the duties of the FLO II are not substantially similar to those of subordinates, and the FLO II meets the definition of supervisory employee established in Dills Act section 3513(g).

Based on the foregoing, the Board dismisses CDFEA's unit modification petition requesting the placement of the FLO II

classification in State Bargaining Unit 8. The FLO II will remain a supervisory classification, and be aligned with State Bargaining Unit 8.

Forestry asserts that PERB erred in substituting a Board agent who did not conduct the hearing to prepare the proposed decision. PERB Regulation 32168(b) allows substitution of Board agents at the General Counsel's discretion in representation matters.⁷ PERB's substitution of the Board agent was in accordance with this section, and Forestry's objection is without merit.

Finally, Forestry asserts that PERB failed to ensure against internal conflicts of interest by establishing guidelines to screen the attorneys who advise the Board from PERB's advocacy, investigative and adjudicative functions. PERB Regulation 32155 expressly addresses the need to avoid even the appearance of impartiality, and describes the means a party may use to request disqualification of any Board agent or Board member based on an

⁷PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Regulation 32168 provides, in pertinent part:

(b) A Board agent may be substituted for another Board agent at any time during the proceeding at the discretion of the Chief Administrative Law Judge in unfair practice cases or the General Counsel in representation matters. Prior to ordering a substitution the parties shall be notified and provided an opportunity to state objections to the proposed substitution. Substitutions of Board agents shall be appealable only in accordance with Sections 32220 or 32300.

alleged conflict of interest or lack of neutrality. The Department failed to utilize the procedures described in PERB Regulation 32155, and provided no evidence indicating how PERB's organizational structure biases the Board or any of its agents. Therefore, the Department's assertion is rejected.⁸

ORDER

The unit modification petition requesting placement of the Forestry Logistics Officer I classification in State Bargaining Unit 8 is GRANTED.

The unit modification petition requesting placement of the Forestry Logistics Officer II classification in State Bargaining Unit 8 is DISMISSED.

Members Johnson and Dyer joined in this Decision.

⁸The fundamental component of PERB's role in administering the Dills Act and the other collective bargaining statutes that PERB oversees, is its neutrality. Evidence of bias or any lack of neutrality by PERB or any of its agents should be brought to the attention of the Board immediately. Conversely, unsubstantiated and self-serving suggestions of bias by a party displeased with the outcome of a case, do a disservice to PERB and bring discredit to the party offering the unfounded suggestions.